



NEW AMERICA
FOUNDATION

September 8, 2004

Via Electronic Submission

Ms. Marlene H. Dortch
Secretary
Federal Communication Commission
445 12th Street, SW
Washington, DC 20554

Re: MB Docket No. 03-185

Dear Ms. Dortch:

On Thursday, September 2, 2004, at 3:19 p.m., I sent an email message to Edmond Thomas, with copies of the same to Julius Knapp, expressing concern that policies being considered in the above-referenced proceeding could have an adverse impact on the future availability of TV band spectrum for unlicensed citizen access. A copy of that email is attached.

Sincerely yours,

Michael Calabrese
Vice President and Director,
Spectrum Policy Program

-----Original Message-----

From: Michael Calabrese

Sent: Thursday, September 02, 2004 3:19 PM

To: 'edmond.thomas@fcc.gov'

Cc: 'julius.knapp@fcc.gov'

Subject: Is Unlicensed TV Band NPRM Undermined by LPTV/Translator Order (03-185) on 9/9 Agenda?

Importance: High

Ed,

I left you a voice mail - and spoke to Julius - but wanted to follow-up. Based on what we hear, we believe 03-185 (digital transition for LPTV/Translators, etc) may greatly undermine - if not effectively kill - the Commission's TV band unlicensed proceeding. If thousands of LPTV, translator and booster licensees receive the same rights as high-power stations -- particularly the right to use the entire 6 MHz in the core for auxiliary services -- there will be little left for unlicensed broadband (and every incentive for new translator applications, as they can satisfy the broadcasting requirement on less than 1 MHz).

We understand this will be blasted as a giveaway, but more importantly, the Commission must decide whether it wants to use up the lion's share of rural broadcast band white space for TV translator stations or for rural broadband Internet service. It's been our understanding that expanding rural broadband Internet service was a higher priority than expanding the spectrum used by conventional broadcasting service. Moreover, this expansion in rights comes with no attached PIOs. If this order gets passed, it will invite huge speculation in the broadcast band - speculators will occupy every channel and the promise of unlicensed as a third pipe in the last mile will be greatly undermined.

We'd love to hear that we are wrong; but if not: Our first choice would be to pull this item from next week's agenda until OET can study the interactivity with the NPRM on unlicensed in the TV Band. Our second choice would be a requirement that any auxiliary services in the same band be on an unlicensed, or co-equal, basis with unlicensed service. Indeed, unlike 1997 - when it was assumed the ancillary bandwidth might otherwise be wasted - these secondary licensees should receive no additional auxiliary licensed rights; and the Commission should reserve its authority to co-locate or relocate them as needed to enhance spectrum efficiency. We also oppose "loaning" a second channel to existing licensees - consistent with the Fereee plan, they should be able to make a flash cut transition when the high-power stations turn off analog.

Thank you very much for your consideration. When you are back, I hope we can chat on this. I left a similar message for Bryan Tramont, as has Peter Pitsch, Andy Schwartzman and others. Thanks,

Michael Calabrese

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